

TAX ADMINISTRATION

SB 300 — Repeal of the Repeal of Certain Tax Administration Provisions Adopted in Chapter 2000-312, Laws of Florida

by Government Efficiency Appropriations Committee

During the 2000 Regular Session, a number of bills were amended onto HB 509, which passed the Legislature, becoming ch. 2000-312, L.O.F. One of the bills contained a repealer section that, once amended into HB 509, was not limited in its scope. This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed effective October 1, 2005, unless they are reenacted by the Legislature. SB 300 continues the following provisions of law:

- The authorization that a taxpayer may be awarded costs and attorney's fees in a contest of a sales tax assessment if the Department of Revenue rejects or modifies an Administrative Law Judge's conclusions of law and an appellate court finds for the taxpayer.
- The repeal of the tourist development tax cannot apply to any portion of taxes initially levied in November 1989, which has been pledged or are being used to support bonds, until after the retirement of those bonds.
- Authorizes counties that elect to audit the tourist development tax and the convention development tax to continue to use CPAs.
- The statutory authority for Miami-Dade County to continue to levy the County Public Hospital Surtax.
- The statutory authority for qualified counties to levy the Voter-Approved Indigent Care Surtax. As of January 1, 2005, Alachua and Polk counties impose the surtax.
- An exception to the requirement that the Department of Revenue approve a refund of property taxes. When a payment has been made in error by a taxpayer because of an error in the tax notice sent to the taxpayer, a refund must be made directly by the tax collector.
- An exemption from the tax on intangible personal property for a leasehold estate in governmental property where the lessee is required to furnish space on the leasehold estate for public use by governmental agencies at no cost to those agencies.

- Authorization for the Department of Revenue to share information with CPAs for participants in the Registration Information Sharing and Exchange Program.
- The Department of Revenue may continue to compromise taxes and interest if a taxpayer establishes reasonable reliance on written advice issued by the department.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 115-0

SB 1796 — Property Tax Administration

by Senator Atwater

SB 1796 changes the Department of Revenue's response to a finding of an excessive error rate in the property appraiser's sales qualification determinations. It requires the department to issue a post-audit notification of defects, instead of issuing a review notice. It provides a higher degree of supervision by the department, and allows sufficient time for the problems to be corrected without triggering roll disapproval.

The bill requires the department to use all practicable steps to maximize the representativeness or statistical reliability of samples in conducting assessment ratio studies.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 39-0; House 117-0

HB 1813 — Tax Administration

by Finance and Tax Committee and Rep. Brummer and others (CS/SB 2032 by General Government Appropriations Committee and Senator Atwater)

The bill makes the following changes to current tax administration and taxes that are administered by the Department of Revenue:

- Allows an estate that is not required to file a federal tax return to file an affidavit with the clerk of the court attesting that no Florida estate tax is due.
- Provides special provisions on the sale of a timeshare interest in a timeshare plan for the imposition of the nonrecurring intangibles tax and the documentary stamp tax.
- Provides an additional definition of the term "service address" for the purposes of the tax on communications services.
- Provides that penalties relating to fuel taxes shall be deposited into the Fuel Tax Collection Trust Fund.

- Expands the authorized uses of convention development tax revenues to include the acquisition, construction, extension, enlargement, remodeling, repair, improvement, planning for, operation, management, or maintenance of golf courses.
- Clarifies the tax treatment for nonresident purchasers of airplanes.
- Clarifies that no tax shall be imposed on any vessel imported into Florida for the sole purpose of being offered for sale at retail by a yacht broker or dealer registered in Florida, provided the vessel remains under the care, custody, and control of the registered broker or dealer and the owner makes no personal use of the vessel during that time.
- Includes in the definition of “tax fraud,” willful attempts to evade a tax, surcharge, or fee imposed by ch. 212, F.S..
- Authorizes the expanded sharing of confidential information between the Department of Revenue and the Department of Agriculture and Consumer Services for the Bill of Lading Program.
- Retroactive to July 1, 2003, the bill specifies that tourist development taxes, the tourist impact tax, and all taxes imposed under ch. 212, F.S., except for the rental car surcharge, qualify for the automatic penalty compromise or settlement of liability.
- Clarifies that the notification by the DOR to the taxpayer that the taxpayer’s account is being referred to a debt collection agency must be made at least 30 days before the referral.
- Authorizes the Florida Surplus Lines Service Office to collect the Emergency Management, Preparedness, and Assistance Trust Fund surcharge and deposit the proceeds into the trust fund.
- Requires employers who transfer their business to a related entity to retain their unemployment experience history unless the successor was already an employer and the transfer was not solely or primarily for the purpose of obtaining a lower tax rate.
- Authorizes the DOR to send to employers by registered mail, notices of unemployment tax assessments and notices of the filing of liens.
- Creating a statute of limitations for assessments of the insurance premium tax if the amount of corporate income tax or a workers’ compensation administrative assessment paid by the insurer is adjusted through an amended return or refund.
- Authorizes an affiliate group of corporations meeting certain criteria to irrevocably elect to take a credit against the insurance premium tax in an amount that shall not exceed 15 percent of the salary of certain employees of the affiliated group of corporations.

- Reenacts s. 213.21, F.S., scheduled to be repealed on October 1, 2005, relating to informal conference procedures within the DOR.
- Provides a documentary stamp tax exemption for documents that were recorded in error or by mistake in the period between April 15, 2000 and before April 10, 2005.
- Allows salary credit for employees of a service company subsidiary of a mutual holding company contingent on an appropriation to the GR Fund to offset the salary credits.
- Appropriates in FY 2005-06, \$2.6 million from the Workers' Compensation Administration Trust Fund to the General Revenue Fund to pay for the salary credit.
- Eliminates a reference to the intangible tax and provides a new definition of "banking organization" for purposes of an exemption from documentary stamp taxes for notes issued in international banking transactions.
- Creates s. 196.1999, F.S., to exempt from ad valorem taxation, storage components used to transport or store cargo used for a space laboratory which is used for scientific purposes.

If approved by the Governor, except otherwise expressly provided in this act, these provisions take effect July 1, 2005.

Vote: Senate 39-1; House 116-0

SALES AND USE TAX

HB 101 — Florida Sales Tax Relief Act

by Rep. Sanson and others (CS/SB 476 by Government Efficiency Appropriations Committee and Senators Webster, Fasano, Haridopolos, Clary, Crist, and Wilson)

The bill provides that no sales and use tax will be collected on the sale of books, clothing, wallets, or certain bags having a selling price of \$50 or less during the period from 12:01 a.m. on Saturday, July 23, 2005, through midnight on Sunday, July 31, 2005. The bill also provides that no sales and use tax shall be collected on the sale of school supplies having a selling price of \$10 per item or less during the period from 12:01 a.m. on Saturday, July 23, 2005, through midnight on Sunday, July 31, 2005.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 38-0; House 112-1

DOCUMENTARY STAMP TAX

HB 1889 — Documentary Stamp Tax Revenue

by Fiscal Council and Rep. Negron (CS/CS/SB 1110 by Ways and Means Committee; Government Efficiency Appropriations Committee; and Senator Atwater)

The Senate strike all amendment to HB 1889 provides that, effective July 1, 2007, the amounts distributed from documentary stamp tax collections to the following trust funds may not exceed amounts specified in the bill.

- Land Acquisition Trust Fund;
- Water Management Lands Trust Fund;
- Invasive Plant Control Trust Fund;
- State Game Trust Fund;
- State Housing Trust Fund; and
- Local Government Housing Trust Fund.

The following distributions are not changed by the bill:

- CARL Trust Fund, including a distribution to the State Game Trust Fund for land management;
- Water Quality Assurance Trust Fund; and
- General Inspection Trust Fund.

Distributions in excess of these amounts will be paid into the State Treasury to the credit of the General Revenue Fund.

The bill includes a growth factor that will increase the cap for each fund based on growth in documentary stamp collections.

The bill is projected to redirect approximately \$404 million to the General Revenue Fund in FY 2007-2008, and \$455 million in FY 2008-2009.

The bill provides that, if the payments required for bonds (that were outstanding on July 1, 2007), exceed the specified limitations, distributions to the trust fund from which these bond payments are made will be increased to the lesser of the amount needed to pay bond obligations or the applicable percentage distribution under ss. 201.15, F.S.

It also provides that the limit imposed on distributions to the State Housing Trust Fund shall not be construed to adversely affect the rights of holders of bonds or affordable housing guarantees.

The bill appropriates \$250 million to fund the recommendations of the Hurricane Housing Workgroup chaired by Lt. Governor Toni Jennings. The funds are surplus nonrecurring balances in the State Housing Trust Fund and will be used for housing recovery, affordable rental housing

recovery, farm worker housing recovery, special housing assistance and several other efforts with a focus on assisting citizens with low incomes. The bill specifies that \$208 million of the \$250 million is to be allocated exactly as was recommended by the Hurricane Housing Workgroup. The funds will be targeted primarily to 28 counties most affected by the 2004 hurricanes, with emphasis on persons with low or extremely low incomes. The remaining \$42 million is to be used for the rental recovery loan program.

It also allows the Florida Housing Finance Corporation to adopt emergency rules pursuant to s. 120.54, F.S., to provide additional funds to assist those areas of the state that sustained housing damage due to hurricanes during 2004.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 27-11; House 109-7

GROSS RECEIPTS TAX

CS/SB 1244 — Tax/Gross Receipts for Utility Services

by Government Efficiency Appropriations Committee and Senator Alexander

CS/SB 1244 imposes gross receipts tax on all utility services delivered to in-state retail consumers. It broadens the definitions of “utility services” and provides a definition of “distribution companies.” It also provides an exclusion from the tax on natural or manufactured gas for certain industries.

The bill provides forgiveness for unpaid gross receipts tax, penalties, and interest which may be due on the sale or transportation of natural gas for consumption in this state if the sales were made prior to January 1, 2006, and:

- The sales were by persons not regulated by ch. 366, F.S., which regulates public utilities;
- The sales agreement provided for transfer of title to the gas outside of Florida; or
- The sales were of transportation services associated with the sales of gas.

The forgiveness, which is called amnesty in the bill, is limited to sellers that register with the Department of Revenue (if they are required to register) and apply for forgiveness by January 1, 2006.

If approved by the Governor, these provisions take effect January 1, 2006.

Vote: Senate 39-0; House 109-2

CORPORATE INCOME TAX

CS/SB 1300 — Corporate Income Tax/Limitation/Refunds

by Government Efficiency Appropriations Committee and Senator Campbell

CS/SB 1300 conforms the statute of limitations for refunds of estimated payments of corporate income tax to the statute of limitations for tax assessments. For tax years beginning on or after January 1, 2001, estimated tax payments are deemed to have been made when the tax return is required to be filed, including extensions of time allowed to the taxpayer for filing such returns.

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 40-0; House 118-0

SB 1798 — Corporate Income Tax/2005 IRS Code

by Senator Atwater

Senate Bill 1798 updates references in ch. 220, F.S., (the Florida Income Tax Code) to reflect changes in the U.S. Internal Revenue Code adopted after January 1, 2004.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 116-0

PLANNING AND BUDGETING

CS/SJR 2144 — State Budget Planning, Spending, and Accountability

by Ways and Means Committee and Senator Atwater

This Joint Resolution puts before the voters at the next general election proposed changes to s. 19, Art. III of the State Constitution. Specifically it proposes to:

- Limit the amount of non-recurring general revenue that may be used to fund the recurring costs of state programs to 3 percent of total general revenue (approximately \$800 million). This limitation may be waived by a 3/5 vote of the Legislature.
- Require the Joint Legislative Budget Commission to issue a long-range financial outlook, which will recommend fiscal strategies, including workload and revenue estimates. Agency legislative budget requests will be required to be based upon and reflect the long-range financial outlook.
- Establish the Joint Legislative Budget Commission in the Florida Constitution to operate essentially as it does now. The Joint Legislative Budget Commission will be required to

seek input from the public and from the executive and judicial branches when developing and implementing the long-range financial outlook.

- Create a Government Efficiency Task Force in 2007, and every 4 years thereafter, composed of legislators and private sector appointees, to make recommendations to improve government and reduce costs.
- Require that each state trust fund be re-created once, 4 years after its initial creation. This reduces the current requirement to re-create each non-exempt trust fund every 4 years in perpetuity.
- Require state planning to be long-range (and updated every 2 years as is done now), with statewide strategic goals and objectives, and to be consistent with the long-range financial outlook.

These provisions take effect upon approval of the electors of this state at the next general election.

Vote: Senate 39-0; House 116-2

CS/SB 2146 — State Budget Planning, Spending, and Accountability

By Ways and Means Committee and Senator Atwater

This bill conforms current statutes to the provisions of SJR 2144, which puts before the voters at the next general election proposed changes to s. 19, Art. III of the State Constitution. Specifically the bill:

- Limits the amount of non-recurring general revenue that may be used to fund the recurring costs of state programs to 3 percent of total general revenue (approximately \$800 million). This limitation may be waived by a 3/5 vote of the Legislature.
- Establishes the Joint Legislative Budget Commission in the Florida Constitution to operate essentially as it does now. Membership remains at 7 Senators and 7 Representatives. The chair of the commission will be appointed in alternate years by the President of the Senate and the vice chair appointed by the Speaker of the House of Representatives (instead of the chairs of the appropriations committees serving as chair and vice chair); in alternate years, appointing authority is reversed. The commission will convene at the call of the presiding officers (instead of the chair and vice chair).
- Directs the Joint Legislative Budget Commission to develop a long-range 3-year financial outlook which will be updated each year with the assistance of each state agency providing information to support the commission's development and updates of the long-range financial outlook. The bill establishes a detailed calendar for commission

development of the fiscal strategies of the financial outlook and the required agency response to the financial outlook. The bill prescribes a plan to ensure an integrated state planning and budget process to assure consistency between the agency's long-range plan and the agency's legislative budget request.

- Creates a Government Efficiency Task Force in 2007, and every 4 years thereafter, composed of legislators and private sector appointees, to make recommendations to improve government and reduce costs. The task force will be composed of 13 members. Five members will be appointed by the President of the Senate, 5 members will be appointed by the Speaker of the House of Representatives, and 3 members will be appointed by the Governor. Members of the task force may include private sector representatives. The task force will complete its work within one year.
- Requires state planning to be long-range and updated every 2 years (as is done now), with statewide strategic goals and objectives, and to be consistent with the long-range financial outlook.

These provisions take effect upon the effective date of the amendment to the State Constitution contained in SJR 2144.

Vote: Senate 39-0; House 118-0

INTANGIBLES TAX

CS/SB 2348 — Intangible Personal Property Tax

by Government Efficiency Appropriations Committee and Senators Haridopolos, Wise, Peaden, Argenziano, Lynn, Fasano, Dockery, Sebesta, Baker, Bennett, Constantine, Atwater, Campbell, Saunders, Posey, Webster, Diaz de la Portilla, King, Alexander, Jones, Crist, and Lawson

This bill reduces the annual tax on intangible personal property by one-half, from one mill to 0.5 mill.

If approved by the Governor, this provision takes effect January 1, 2006.

Vote: Senate 28-11; House 86-30